



PATENT
Attorney Docket No. 0343-0036

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
RAMIRO ARREZ et al.

Serial No. 10/767,041

Filed: January 29, 2004

Examiner: FOX, CHARLES A.

Art Unit: 3652

Confirmation No.: 4828

For: ADVANCED HEAVY DUTY
CART LIFTER

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Date of Deposit: February 7, 2007

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Claims 1-12 are pending in the application. Claims 1-5 and 7-11 stand rejected over prior art. Claims 6 and 12 are objected to for depending from a rejected base claim, but are indicated as otherwise being directed to patentable subject matter.

The two independent claims, claims 1 and 7, finally rejected in the Office Action dated September 7, 2006, are reproduced in full below.

1. A lifting device for lifting and inverting a refuse collection container having a body with spaced-apart upper and lower engagement surfaces, the lifting device comprising:

a base;

a face plate pivotally mounted with respect to the base for movement between a first, lower position and a second, raised and inverted position;

an actuator mounted to the base and operatively attached to the face plate for moving the face plate between the lower and the raised and inverted positions;

a lift member fixedly mounted to the face plate for engaging the upper engagement surface of a refuse collection container; and

a latch assembly mounted to the face plate for capturing the lower engagement surface on the refuse collection container, the latch assembly further comprising a track carried by the face plate; a slide movably mounted in the track; a hook pivotally carried by the slide for movement between a position for capturing the lower engagement surface and a retracted position, the hook being biased toward the capturing position; and at least one actuator arm having first and second ends, the first end being pivotally carried by the base and the second end being operatively connected to the slide,

whereby when the face plate is moved from the raised and inverted position to the lower position, the actuator arm moves the slide along the track to cause the hook to engage a portion of the face plate to move the hook to the retracted position.

7. A lifting device for lifting and inverting a refuse collection container having a body with spaced-apart upper and lower engagement surfaces, the lifting device comprising:

a base;

a lift member for engaging the upper engagement surface of a refuse collection container;

a hook for capturing the lower engagement surface on the refuse collection container, the hook being pivotally movable between a position for capturing the lower engagement surface and a retracted position, the hook being biased toward the capturing position;

an actuator mounted to the base and operable to move the lift member and hook in unison between a first, lower position and a second raised and inverted position;

at least one actuator arm having first and second ends, the first end being pivotally carried by the base and the second end being operatively connected to the hook,

whereby when the lift member and hook are moved from the raised and inverted position to the lower position, the actuator arm moves the hook to the retracted position.

Specifically, claims 1 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable under Bayne US 5,308,211 in view of Redding et al. US 5,466,110. The Examiner cites Bayne for disclosing all the features called for in these claims except the upper latch member being fixed to the face plate. Redding et al. is cited simply for teaching the upper latch member being fixed to the face plate.

In the present invention, the lifting device called for in the independent claims 1 and 7 has a lower hook that is pivotally mounted to the lifting device and is moved by an actuator arm pivotally connected to the base and operatively connected to the hook (such as through an intermediate slide structure, namely a slide block) so that when the lift device is moved from the raised, inverted position to the lower position, the hook is moved by the actuator arm to the retracted position.

The operation of the lower latch member 110 of Bayne is shown in Fig. 5 and described in the specification at column 11, line 63-column 12, line 6. The lower latch member 110 is described as being pivoted relatively downward from its extended position into a retracted position (shown in dotted line as 110') in response to engagement (i.e., hitting or abutting) against the sidewall of a "European style" refuse receptacle cart being lifted thereby. This is confirmed by reference to Figs. 10 and 12A-

E of Bayne, which sequentially show the operation of its lifter with a "Domestic style" cart. Specifically, with reference to Fig. 10, the hook 110 in Bayne is not even in its retracted position, and is certainly not moved to its retracted position due to an actuator arm to which the hook is connected causing the hook to engage a portion of the face plate (as required by claim 1). Similarly, the hook 110 of Bayne is not moved to its retracted position in response to the lifter being moved to its lower position (as required by claim 7). Accordingly, Applicant submits that neither claim 1 nor claim 7 is obtained by, or obvious in view of, the combination of Bayne and Redding et al., nor is it suggested by such combination.

In the Office Action of September 7, 2006, the Examiner states with regard to Bayne that, "[w]hen the device operates it starts with the hook and slide in a retracted position and as it lifts the actuator arm moved the slide and hook to an extended position where it engages a lower handle of a cart. If the lower hook did not retract via the slide mechanism, it would not be able to release the cart. As such, it does retract due to an operative connection to an "actuation arm."

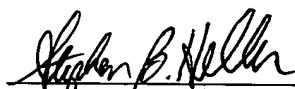
To the contrary, the hook 110 of Bayne never retracts "via the slide mechanism" and, more specifically does not retract due to contact with the face plate 100, as required by claim 1. As best seen in Fig. 5, the hook 110 is mounted to the lower, shorter leg of an L-shaped weldment that comprises an "extension number" 226 in such manner that it can never be retracted behind the face plate 110. Further, the hook 110 of Bayne is not moved to the retracted position of Fig. 5 by an actuator arm, as required by claim 7. As clearly described and shown in Bayne, the hook 110 is simply pushed to

the retracted position by contact against the wall of a "European style" cart, (see, Col. 11, l. 63-Col. 12, l. 11).

Accordingly, the claimed invention clearly is not shown or suggested in the references relied upon by the examiner in that Bayne does not disclose or suggest either a lifter in which the lower hook is moved to a retracted position due to an actuator arm moving a slide along a track to cause the hook to engage a position of the face plate (as required by claim 1), or a lifter where the lower hook is moved to the retracted position by an actuator arm (as required by claim 7). The further citation by the examiner of Redding et al. adds nothing in this regard, and Applicant submits that the pending claims are not rendered obvious over Bayne in view of Redding et al.

In view of the foregoing, Applicant respectfully requests reconsideration and allowance of the pending claims.

Respectfully submitted,



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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)
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10/767,041Filed
January 29, 2004First Named Inventor
Ramiro Arrez, et al.Art Unit
3652Examiner
Charles A. Fox

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒ attorney or agent of record.Registration number 30,181☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

Signature

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February 7, 2007

Date

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